

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

) 3:73-cv-00128-MMD-WGC

Plaintiff,

WALKER RIVER PAIUTE TRIBE,

Plaintiff-Intervenor,

V.

WALKER RIVER IRRIGATION DISTRICT,
a corporation, et al.,

Defendants.

MINERAL COUNTY,

Plaintiff-Intervenor,

V.

WALKER RIVER IRRIGATION DISTRICT,
et al.,

Defendants.

Mineral County is now ready to move forward with its final service efforts in this matter by personally serving those California riparian property owners in the Walker River Basin who have not previously waived personal service.

THEREFORE, IT IS HEREBY ORDERED as follows:

1. Based on previous Orders of the Court, Rule 4 service on Decreed water rights holders is complete, *see* Doc. 725, and the final list of California riparian property owners in the Walker River Basin to be served pursuant to Rule 4 submitted by Mineral County is hereby approved and is attached hereto as Attachment A.

1 2. On or before December 31, 2021, Mineral County shall make service pursuant to
2 Rule 4 of the Federal Rules of Civil Procedure of a service package consisting of the following
3 documents on all California riparian property owners in the Walker River Basin listed in
4 Attachment A, who remain to be served:¹

- 5 a. *Notice in Lieu of Summons* properly issued by the Clerk of the Court;
6 b. A copy of this Order;
7 c. *Second Amended Complaint in Intervention* (Doc. No. 936);
8 d. Forms for a *Notice of Appearance and Intent to Participate* as follows:
9 (i) *Notice of Appearance and Intent to participate for Party*
10 Represented by Attorney;
11 (ii) *Notice of Appearance and Intent to Participate for Unrepresented*
12 Party Consenting to Electronic Service;
13 (iii) *Notice of Appearance and Intent to participate for Unrepresented*
14 Party Declaring Hardship Making Electronic Service Impossible; and
15 e. A form for a *Disclaimer of Interest in Water Rights and Notice of*
16 Related Information and Documentation Supporting Disclaimer.
17

18 3. Responses will be governed by the following provisions, which are included in the
19 *Notice in Lieu of Summons* referenced in paragraph 2 of this Order:
20

- 21 a. Responses to Mineral County's *Second Amended Complaint in Intervention*
22 shall be filed and served as follows:
23
24
25

26 _____
27 ¹ Concurrently with this Order, the Court is issuing an *Order Approving Mineral County*
28 *Service Package*, which approves the form and list of documents Mineral County will serve pursuant to this Order.

1 i. For Defendants who were served or who returned *Waivers of*
2 *Personal Service of Notice in Lieu of Summons* forms prior to the entry of this Order, responses
3 shall be filed and served no later than September 28, 2021; and

4 ii. For Defendants served after the entry of this Order, responses shall
5 be filed and served no later than 90 days from the date on which the Defendant is served or signs
6 a *Waiver of Personal Service of Notice in Lieu of Summons* pursuant to this Order.
7

8 b. Within thirty (30) days of service of the *Notice in Lieu of Summons* or
9 signing of a *Waiver of Personal Service of Notice in Lieu of Summons*, any proposed Defendant
10 who has been served and who wishes to appear in this subproceeding shall file with the Court the
11 applicable *Notice of Appearance and Intent to Participate*.

12 c. Persons, corporations, institutions, associations or other entities who, at the
13 time of service, no longer own a water right subject to this litigation² must file the *Disclaimer of*
14 *Interest* form referenced in paragraph 7 of this Order with the Court within thirty (30) days of
15 service.
16

17 4. If Mineral County intends to seek a waiver of personal service of the above
18 documents, pursuant to the provisions of Fed. R. Civ. P. 4(d), Mineral County shall allow thirty
19 (30) days for return of the *Waiver of Personal Service of Notice in Lieu of Summons* and shall
20 include in the mailing the documents listed in paragraph 2 of this Order, except for the *Notice in*
21 *Lieu of Summons* described in paragraph 2(a) above.³
22

23 ² Pursuant to previous orders of this Court, (Doc Nos. 19 & 736) water rights that are subject
24 to this proceeding include water rights under the Walker River Decree as well as existing and
25 potential riparian water rights possessed by riparian land owners within the California portion
of the Walker River Basin.

26 ³ Mineral County has represented to the Court that while it does not intend to seek waivers
27 from all defendants listed on Attachment A who remain to be served, there may be a limited
28 number of defendants from whom Mineral County will seek a waiver as a result of difficulties
associated with personal service.

1 In addition to the documents listed in paragraph 2, the mailing to each such proposed
2 Defendant seeking a waiver of personal service also shall include a *Notice of Lawsuit and Request*
3 *for Waiver of Personal Service* of the documents included in the mailing and a *Waiver of Personal*
4 *Service of Notice in Lieu of Summons* form generally in accordance with Forms 5 and 6 of the
5 Federal Rules of Civil Procedure, respectively, but modified to cover service of the other
6 documents included in the mailing. The *Notice of Lawsuit and Request for Waiver of Personal*
7 *Service of Notice in Lieu of Summons* and the *Waiver of Personal Service of Notice in Lieu of*
8 *Summons* shall substantially conform to the *Notice of Lawsuit and Request for Waiver of Personal*
9 *Service of Notice in Lieu of Summons* and the *Waiver of Personal Service of Notice in Lieu of*
10 *Summons* approved by the Court in its *Order Approving Mineral County Service Package*.

12 5. At such time as all service required by this Order is complete, Mineral County shall
13 file a statement to that effect, including documentation of waiver of personal service for those
14 defendants listed in Attachment A who returned a signed *Waiver of Personal Service of Notice in*
15 *Lieu of Summons* form in 2015.

17 6. Persons, corporations, institutions, associations or other entities who waive
18 personal service or are personally served but who do not appear shall nevertheless be deemed to
19 have notice of subsequent orders of the Court.

21 7. No default shall be taken against any Defendant for failure to appear, or against any
22 Defendant who, having appeared, fails to respond to or otherwise defend against the Second
23 Amended Complaint in Intervention

24 8. **Treatment of Defendants Who Transferred Their Interest(s) Prior to**
25 **Service:**

26 Pursuant to the Court's September 6, 2011, *Amended Order Concerning Service Issues*
27 *Pertaining to Defendants Who Have Been Served* (Doc. No. 542), if any person or entity
28

1 receiving service by mail or personal service has no interest in any water right subject to this
2 subproceeding, that person or entity shall file a Disclaimer of Interest notifying the Court in
3 writing of that fact. If such a person or entity sold or otherwise conveyed ownership of *all*
4 water rights subject to this subproceeding before being served or otherwise brought into the
5 subproceeding, in addition to disclaiming any interest in this subproceeding that person or
6 entity shall file a Notice providing successor-in-interest information.
7

8 The form and substance of such a Disclaimer and Notice shall substantially conform to
9 the form for a *Disclaimer of Interest in Water Rights and Notice of Related Information and*
10 *Documentation Supporting Disclaimer* included in the service package approved by the Court
11 in its *Order Approving Mineral County Service Package*, and shall be sent to the Court for
12 filing. Any person or entity who files a Disclaimer of Interest form or provides information
13 for this purpose by other means is responsible for the accuracy of that filing. Consequently,
14 any person or entity who files a Disclaimer of Interest of water rights subject to this litigation
15 but in fact retains any such water rights, shall nevertheless be bound by the results of this
16 litigation.
17

18 Following its receipt from any person or entity disclaiming any interest in any of the
19 water rights at issue in this case, Mineral County will review the materials received and, if
20 appropriate, request that the Court dismiss that person or entity from this subproceeding.
21

22 DATED: _____, 2021
23
24

25 _____
UNITED STATES MAGISTRATE JUDGE
26
27
28

1 Respectfully submitted this 16th day of July, 2021,

2 /s/ Simeon Herskovits

3 Simeon M. Herskovits, Nevada Bar No. 11155

4 Iris Thornton, *pro hac vice*

5 Advocates for Community and Environment

6 P.O. Box 1075

7 El Prado, New Mexico 87529

8 Phone: (575) 758-7202

9 Fax: (575) 758-7203

10 Email: simeon@communityandenvironment.net

11 Email: iris@communityandenvironment.net

12 /s/ Sean Rowe

13 Sean A. Rowe, Nevada Bar No. 10977

14 Mineral County District Attorney

15 P.O. Box 1210

16 Hawthorne, Nevada 89415

17 Phone: (775) 945-3636

18 Fax: (775) 945-0740

19 Email: srowe@mineralcountynv.org

20 *Attorneys for Mineral County, Plaintiff-*
21 *Intervenor and Walker Lake Working Group,*
22 *Defendant*
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of July, 2021, I electronically filed the foregoing
**[PROPOSED] ORDER RELATING TO COMPLETION OF SERVICE AND
SCHEDULE FOR RESPONSES TO MINERAL COUNTY'S SECOND AMENDED
COMPLAINT IN INTERVENTION**, with the Clerk of the Court using the CM/ECF
system, which will send notification of such filing to parties of record via their E-Mail
addresses. I further certify that on this 16th day of July, 2021, I caused a copy of the forgoing
to be served on the following non CM/ECF participants by U.S. Mail, postage prepaid:

David Parraguirre
1700 Wendy Way
Reno, NV 89509

Joe Sceirine
P.O. Box 1013
Yerington, NV 89447

Rachel Tholke Trust
c/o Dawn Cooper, Trustee
P.O. Box 97
Coleville, CA 96107

Twelves Family Trust
c/o Roy Snyder, Trustee
4164 South Syracuse
Denver, CO 80237

Deborah Hartline
P.O. Box 1343
Quincy, CA 95971

Stanley and Janet Hunewill
P.O. Box 368
Bridgeport, CA 93517

Silverado, Inc.
c/o Scott Shackelton
4160 Long Knife Road
Reno, NV 89509

Presto Family Trust Agreement
Beatrice Presto, et al., Trustees
1462 Douglas Avenue
Gardnerville, NV 89410

Margaret & Terry Hawkins
945 E. Main Street, #168
Fernley, NV 89801

William Weaver
Sweetwater Ranch
2535 State Road 338
Wellington, NV 89444

Beverly Sceirine
P.O. Box 249
Yerington, NV 89447

Norman Annett
P.O. Box 455
Bridgeport, CA 93517

Tom Talbot
TALBOT LAND & LIVESTOCK
1650 North Sierra Highway
Bishop, CA 93514

David Sceirine
P.O. Box 1013
Yerington, NV 89447

R.A. Pelayo
5336 Awbury 7 Ave
Las Vegas, NV 89110

Richard Fulstone
F.M. Fulstone, Inc.
R.N. Fulstone Company
2022 Nevada State Highway No. 208
P.O. Box 61
Smith, NV 89430

David and Karen Hardy Family Trust
P.O. Box 21351
Carson City, NV 89721

Renee Presto
1792 Solitude Lane
Gardnerville, NV 89410

James Fousekis
2848 Garber Street
Berkeley, CA 94705

Leslie Bradshaw
P.O. Box 55
Wellington, NV 89444

Pauline Bradshaw
P.O. Box 55
Wellington, NV 89444

The John and Shirley Cecil Revocable
Living Trust dated October 15, 2004
Shirley Diane Cecil, Trustee
P.O. Box 654
Bridgeport, CA 93517

Stephan E. & Mary S. Swearngin
12715 Fieldcreek Lane
Reno, NV 89511

Eastern Sierra Land Trust
P.O. Box 755
Bishop, CA 93515

Kristin Koketsu
2266 Orleans Drive
Pinole, CA 94564

/s/ Iris Thornton

Iris Thornton